IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION

CIVIL ACTION NO: 3:03CV491

CHARLIE L. RICHARDSON,)	
Plaintiff)	
)	
vs.)	 ORDER
)	
HARRY E. WILSON,)	
Defendant.)	
)	
)	

THIS MATTER IS BEFORE THE COURT on the "Plaintiff Motion to Rescue (sic) Counsel" ("Motion to Recuse") (Document No. 76), filed November 4, 2005 by Charlie Richardson. In the Motion to Recuse, Mr. Richardson asks the Court to order the recusal of Grady L. Balentine, Jr., Assistant Attorney General for the State of North Carolina. Mr. Balentine represents the Honorable Marvin K. Gray, a retired judge of the Superior Court Division of the General Court of Justice for the State of North Carolina, who was subpoenaed by Mr. Richardson to testify at the trial of this case. Mr. Richardson contends that it is a conflict of interest for Mr. Balentine to represent Judge Gray when Harry E. Wilson, the defendant, is represented by Laura E. Crumpler, another Assistant Attorney General for the State of North Carolina.

In an Order, dated November 30, 2005 (Document No. 84), the Honorable Robert J. Conrad granted the "Motion for Summary Judgment" (Document No. 56) by Harry E. Wilson. Because Judge Conrad entered summary judgment against Mr. Richardson, there will be no trial of this case and hence no need for witnesses to testify at such trial. As such, the undersigned has denied as moot the motion brought by Mr. Balentine on behalf of Judge Gray. Likewise, the undersigned will also deny as moot the Motion to Recuse.

IT IS, THEREFORE, ORDERED that the "Plaintiff Motion to Rescue (sic) Counsel" (Document No. 76) is DENIED AS MOOT.

Signed: December 2, 2005

David C. Keesler

United States Magistrate Judge